

Case No. 4:07-CV-2743
Gwin, J.

argues venue is proper because the Defendant resides within the jurisdiction of this Court. In response to the motion to stay the case, New Hampshire notes that the state court action has been removed to the United States District Court, Northern District of Ohio, and is currently pending before Judge Dowd. 4:08-cv-2280.

II. Legal Standard

Generally, [28 U.S.C. § 1391](#) governs proper venue for filing cases in federal court. However, Rule 82 of the Federal Rules of Civil Procedure excepts admiralty or maritime claims from the scope of [28 U.S.C. § 1391](#). [Fed. R. Civ. Pro. 82](#). The Supreme Court has held that in an *in personam* admiralty claim, venue is proper wherever the defendant can be personally served. [In re Louisville Underwriters](#), 134 U.S. 488, 490 (1890). On a motion to dismiss, “[t]he defendant bears the burden of establishing that venue is improper.” [IFL Group, Inc. v. World Wide Flight Servs.](#), 306 F. Supp. 2d 709, 711 (E.D. Mich. 2004).

III. Analysis

Plaintiff New Hampshire Insurance Company filed this case as an admiralty claim. Therefore, venue is proper wherever the Defendant could have been served. In this case, Defendant Suhar has never raised the argument that service upon him was improper. Suhar’s motion to dismiss under Rule 12(b)(3) consists of one sentence and no argument. Under these circumstances, the Court finds that the Defendant has failed his burden of establishing that venue is improper. As a result, the Plaintiff’s choice of venue does not warrant dismissal. Because there is not currently a pending state court matter overlapping with this case, the Court also denies the motion to stay the case in favor of state court proceedings.

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IV. Conclusion

For the foregoing reasons, this Court **DENIES** the Defendant's motion to dismiss. [Doc. [83](#).]

IT IS SO ORDERED.

Dated: November 4, 2008

s/ *James S. Gwin*
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE
